

2018 Regular Session

SENATE BILL NO. 303

BY SENATOR MILKOVICH

SCHOOLS. Provides relative to bullying. (gov sig)

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AN ACT

To amend and reenact R.S. 17:416.13(D)(2)(a), (c), and (d), and (3)(f)(i), to enact R.S. 17:416.13(I) and (J), and to repeal R.S. 17:416.13(D)(3)(d)(iii), relative to student behavior and conduct; to provide relative to bullying; to provide relative to required reporting of incidences of bullying; to provide relative to record keeping; to provide relative to permitted actions by school employees to prevent bullying; to provide relative to protection of school employees from retaliation; to provide relative to parental notification; to provide relative to parental relief; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:416.13(D)(2)(a), (c), and (d), and (3)(f)(i) are hereby amended and reenacted and R.S. 17:416.13(I) and (J) are hereby enacted to read as follows:

§416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability

\* \* \*

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and

1 regulations to implement the provisions of this Section relative to the procedures and  
 2 processes to be used to report and investigate bullying and which shall include but  
 3 not be limited to:

4 \* \* \*

5 (2) Reporting. (a)(i) The governing authority of each public elementary and  
 6 secondary school shall develop a procedure for the reporting of incidents of bullying.  
 7 This shall include a form for the purposes of bullying reports. The form shall include  
 8 an affirmation of truth of statement. Any bullying report submitted regardless of  
 9 recipient shall use this form, but additional information may be provided. The form  
 10 shall be available on the Department of Education's website.

11 **(ii) The governing authority of each public elementary and secondary**  
 12 **school shall provide a copy of each report of bullying received pursuant to this**  
 13 **Paragraph to an appropriate law enforcement agency and the victim's parent**  
 14 **or legal guardian within twenty-four hours of receipt and shall retain a copy of**  
 15 **each bullying report received for at least four years.**

16 \* \* \*

17 (c) School personnel. (i) Any teacher, counselor, bus driver, or other school  
 18 employee, whether full or part time, and any parent chaperoning or supervising a  
 19 school function or activity, who witnesses bullying or who learns of bullying from  
 20 a student pursuant to Subparagraph (b) of this Paragraph, shall report the incident to  
 21 a school official. A verbal report shall be submitted by the school employee or the  
 22 parent on the same day as the employee or parent witnessed or otherwise learned of  
 23 the bullying incident and a written report shall be filed no later than two days  
 24 thereafter.

25 **(ii) A school employee who witnesses an incident of bullying may take all**  
 26 **steps deemed necessary to stop the behavior, including reasonable force,**  
 27 **physical restraint, or removal of the offending student from the school grounds.**

28 **(iii) A school official may contact law enforcement and have the student**  
 29 **exhibiting bullying behavior immediately removed from the school grounds.**

1 (d) Retaliation. ~~(i)~~ Retaliation against any person who reports bullying in  
 2 good faith, who is thought to have reported bullying, who files a complaint, or who  
 3 otherwise participates in an investigation or inquiry concerning allegations of  
 4 bullying is prohibited conduct and subject to discipline. School and district resources  
 5 shall not be used to prohibit or dissuade any person who meets the specifications of  
 6 this Subparagraph.

7 (ii) No school employee shall be discharged, demoted, suspended,  
 8 threatened, harassed, or discriminated against in any manner in the terms and  
 9 conditions of his employment because of any lawful act engaged in by the  
 10 employee in furtherance of any required or authorized action taken pursuant  
 11 to this Section. Such employee may seek any and all relief to which he is entitled  
 12 under state or federal law.

13 (iii) No school employee shall be threatened, harassed, or discriminated  
 14 against in any manner by a business organization, government agency, or other  
 15 person because of any lawful act engaged in by the employee or on behalf of the  
 16 employee in furtherance of any required or authorized action taken pursuant  
 17 to this Section. Such employee may seek any and all relief for his injury to  
 18 which he is entitled under state or federal law.

19 \* \* \*

20 (3) Investigation Procedure. The State Board of Elementary and Secondary  
 21 Education shall develop and adopt a procedure for the investigation of reports of  
 22 bullying of a student by another student. The procedure shall include the following:

23 \* \* \*

24 (f) Parental Relief. (i) If a parent, legal guardian, teacher, or other school  
 25 official has made four or more reports of separate instances of bullying, as provided  
 26 in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3)  
 27 of this Subsection has occurred, or a determination has been made in accordance  
 28 with the provisions of this Section that a student has been the victim of bullying,  
 29 the parent or legal guardian with responsibility for decisions regarding the education

1 of the victim about whom the report or reports have been made may exercise ~~an~~  
 2 ~~option to have the student enroll in or attend another school operated by the~~  
 3 ~~governing authority of the public elementary or secondary school in which the~~  
 4 ~~student was enrolled on the dates when at least three of the reports were submitted.~~

5 one of the following two options:

6 (aa) Have the student who was determined to be the victim of an act of  
 7 bullying transferred to another school operated by the governing authority of  
 8 the public elementary or secondary school in which the student was enrolled  
 9 when the documented incident of bullying occurred.

10 (bb) Have the student who was determined to have committed the act of  
 11 bullying transferred to another school operated by the governing authority of  
 12 the public elementary or secondary school in which the student was enrolled  
 13 when the documented incident of bullying occurred.

14 \* \* \*

15 I.(1) No cause of action shall exist against any school employee who in  
 16 good faith makes a report, cooperates or participates in any investigation, or  
 17 takes any required or authorized action pursuant to the provisions of this  
 18 Section. Such school employee shall have immunity from civil or criminal  
 19 liability that otherwise might be incurred or imposed.

20 (2) The immunity provided in Paragraph (1) of this Subsection shall not  
 21 be extended to a school employee who either:

22 (a) Takes any action pursuant to this Section that the employee knows  
 23 to be based upon false information.

24 (b) Fails to take a required action with regard to a bullying incident.

25 J. The removal of a student from school for bullying shall not be  
 26 considered in itself a final judicial determination of fault or wrong doing.

27 Section 2. R.S. 17:416.13(D)(3)(d)(iii) is hereby repealed.

28 Section 3. This Act shall be known and may be cited as the "Haley Danielle Cox and  
 29 the Katlin Simone Loux Act".

1           Section 4. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Cheryl Serrett.

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DIGEST

SB 303 Engrossed

2018 Regular Session

Milkovich

Present law requires each public school governing authority to adopt a code of student conduct which includes any disciplinary action to be taken against a student who violates the code. Further requires that the code of conduct include a policy prohibiting bullying.

Present law defines "bullying" and requires that school employees receive training on how to recognize bullying behaviors and how to appropriately respond and report incidences of bullying.

Present law requires the State Board of Elementary and Secondary Education to adopt rules and regulations relative to the procedures to be used to report and investigate bullying.

Proposed law retains these provisions of present law.

Present law requires each public school governing authority to develop a reporting procedure and forms for reporting incidents of bullying.

Proposed law retains present law and additionally requires school governing authorities to provide a copy of each report of bullying received to an appropriate law enforcement agency and the victim's parent or legal guardian within 24 hours of receipt. Further requires that a copy of each bullying report received be retained for at least 4 years.

Present law allows students and parents who witness bullying or believes that bullying has occurred to report such to the school. Requires school employees who witness bullying or learn of bullying from a student to report the incident to a school official. Further requires school employees to submit a verbal report the same day the incident was witnessed or otherwise learned of and must submit a written report within two days thereafter.

Proposed law retains present law.

Proposed law authorizes a school employee who witnesses an incident of bullying to take all steps deemed necessary to stop the behavior, including reasonable force, physical restraint, or removing the offending student from the school grounds.

Proposed law authorizes a school official to contact law enforcement and have the student exhibiting bullying behavior immediately removed from the school grounds.

Present law prohibits retaliation against any person who reports bullying in good faith, files a complaint, or participates in an investigation or inquiry concerning allegations of bullying.

Proposed law retains present law and further provides that:

- (1) No school employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee in furtherance of any required or authorized action taken pursuant to present and proposed law. Further provides that an employee may seek any and all relief to which he is entitled under state or federal law.
- (2) No school employee shall be threatened, harassed, or discriminated against in any manner by a business organization, government agency, or other person because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any required or authorized action taken pursuant to present or proposed law. Further provides that an employee may seek any and all relief for his injury to which he is entitled under state or federal law.

Present law requires a public school governing authority to notify the student's parent or legal guardian upon receipt of a report of bullying.

Proposed law retains present law.

Present law provides that before any student under the age of 18 is interviewed, his parent or legal guardian must be notified of the allegations made and given the opportunity to attend any interviews conducted with his child as part of an investigation.

Proposed law repeals present law.

Present law provides that after four or more reports of separate incidences of bullying, and no investigation has occurred, the parent or legal guardian of the victim has the option to have the student enroll in or attend another school.

Proposed law modifies present law by providing that the parent or legal guardian of a student who has been the victim of bullying has two options:

- (1) Have the student who was determined to be the victim of an act of bullying transferred to another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled when the documented incident of bullying occurred.
- (2) Have the student who was determined to have committed the act of bullying transferred to another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled when the documented incident of bullying occurred.

Proposed law provides that:

- (1) No cause of action shall exist against any school employee who in good faith makes a report, cooperates or participates in any investigation, or takes any required or authorized action pursuant to the provisions of present and proposed law. Further provides that such school employee shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.
- (2) Immunity shall not be extended to a school employee who either:
  - (a) Takes any action pursuant to present and proposed law that the employee knows to be based upon false information.
  - (b) Fails to take a required action with regard to a bullying incident.

Proposed law provides that the removal of a student from school for bullying shall not be

considered in itself a final judicial determination of fault or wrong doing.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:416.13(D)(2)(a), (c), and (d), and (3)(f)(i); adds R.S. 17:416.13(I) and (J); repeals R.S. 17:416.13(D)(3)(d)(iii))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Changes the required period for retaining bullying reports from ten years to four years.
2. Makes technical corrections.